

1 THE HONORABLE JOHN C. COUGHENOUR

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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 UNITED STATES OF AMERICA,

CASE NO. CR14-0181-JCC

10 Plaintiff,

ORDER

11 v.

12 ROBERT ADAMS,

13 Defendant.
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15 This matter comes before the Court on Defendant Robert Adams' renewed motion for
16 compassionate release (Dkt. No. 209) and the parties' respective motions to seal (Dkt. Nos. 210,
17 213). Having thoroughly considered the briefing and the relevant record, the Court hereby
18 DENIES Defendant's renewed motion and GRANTS the parties' respective motions to seal for
19 the reasons explained herein.

20 In his prior motions, Defendant moved for compassionate release on the basis that his
21 health conditions represented an extraordinary and compelling reason for reducing his sentence
22 and a reduction would (a) be consistent with the applicable policy statement from the United
23 States Sentencing Commission and (b) satisfied the § 3553(a) factors. (Dkt. Nos. 179, 202.) The
24 Court denied Defendant's motions after concluding that, even if Defendant could demonstrate
25 that his health constituted an extraordinary and compelling reason, the applicable policy
26 statement and the § 3553(a) factors counseled against a reduction. (Dkt Nos. 193, 207.)

1 Defendant again moves for compassionate release, arguing that an increased risk of
2 serious infection resulting from COVID-19 variants and a change in the law, namely the Ninth
3 Circuit's holding in *U.S. v. Aruda*, counsels for a different result this time. (Dkt. No. 209 at 1–3
4 (citing 993 F.3d 797, 802 (9th Cir. 2021)).) In *Aruda*, the Ninth Circuit recently held that the
5 Sentencing Commission's policy statement on a reduction in sentence is not presently
6 "applicable" to a motion for compassionate release brought by a defendant directly to the Court.
7 See 993 F.3d at 802. Regardless, the Court may still consider the statement if it so chooses. *Id.* In
8 this instance the Court chooses to do so.

9 Accordingly, the Court may reduce a term of imprisonment if extraordinary and
10 compelling reasons warrant a reduction, a defendant has exhausted his administrative rights of
11 appeal with the Bureau of Prisons, the defendant would not present a danger to the community,
12 and a reduction is consistent with the factors articulated in 18 U.S.C. § 3553(a). See 18 U.S.C.
13 § 3582(c)(1)(A); United States Sentencing Guidelines § 1B1.13. Here, it is undisputed that
14 Defendant has satisfied the exhaustion requirement. He presented a request for a reduced
15 sentence to the warden of his facility and waited 30 days before seeking relief from the Court.
16 (See Dkt. No. 212-2 at 2). Nevertheless, Defendant fails to demonstrate that his health condition
17 continues to represent an extraordinary and compelling reason warranting compassionate release,
18 that he would not present a danger to the community if he was released, or that the § 3553(a)
19 factors support the reduction he seeks.

20 First, while the rise of variants may increase the risk of contracting a serious illness from
21 a COVID-19 infection, Defendant has already experienced a COVID-19 infection without
22 serious complications. (See Dkt. No. 214 at 72–91.) Moreover, he has now been vaccinated
23 against future infection. (See Dkt. No. 212-1 at 2.) Many courts have concluded that, under
24 similar circumstances, health conditions no longer represent an extraordinary and compelling
25 reason warranting a reduction in sentence. See, e.g., *U.S. v. McBriarty*, 2021 WL 1648479, slip
26 op. at 6 (D. Conn. 2021); *U.S. v. McGill*, 2021 WL 662182, slip op. at 5 (D. Md. 2021). The

1 Court reaches the same conclusion here.

2 Second, while the Court is pleased to hear about Defendant's efforts to overcome his
3 substance abuse issues, they do little to suggest that its prior application of the § 3553(a) factors,
4 or its consideration of the risk Defendant poses to the community, has changed. (*See* Dkt. No.
5 193 at 3–4.) The remaining sentence continues to reflect the seriousness of Defendant's crimes
6 and will afford adequate deterrence, protect the public, and provide Defendant with the
7 correctional treatment he needs. Accordingly, Defendant's renewed motion for compassionate
8 release is DENIED.

9 The parties separately moved to maintain under seal portions of Defendant's medical
10 records referenced in briefing on Defendant's motion for compassionate release. (Dkt. Nos. 210,
11 213.) "There is a strong presumption of public access to the court's files." W.D. Wash. Local
12 Civ. R. 5(g). To overcome that presumption, a party must show "good cause" for sealing a
13 document attached to a non-dispositive motion and "compelling reasons" to seal a document
14 attached to a dispositive motion. *See Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172,
15 1178-81 (9th Cir. 2006). The Court need not decide whether Defendant's motion for
16 compassionate release is a dispositive motion because the Court FINDS that Defendant has a
17 compelling interest in maintaining his medical records under seal and that interest outweighs the
18 public's interest in their disclosure. *See Karpenski v. Am. Gen. Life Cos., LLC*, 2013 WL
19 5588312, slip. op. at 1 (W.D. Wash. 2013). Accordingly, the Court GRANTS the motions to
20 seal.

21 For the foregoing reasons, the Court DENIES Defendant's renewed motion for
22 compassionate release (Dkt. No. 209) and GRANTS the parties' motions to seal (Dkt. No. 210,
23 213). The Court DIRECTS the Clerk to maintain Docket Numbers 211 and 214 under seal.

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1 DATED this 24th day of May 2021.

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5 John C. Coughenour
6 UNITED STATES DISTRICT JUDGE
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